



LAWS ON LIFE-THREATENING FOOD ALLERGIES IN SCHOOLS

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CONNECTICUT LAW

Connecticut has several laws addressing food allergies in schools:

- Administering medications in schools, including epinephrine (CGS §§ [10-212](#) & [10-212a](#))
- State guidelines for managing students with life-threatening food allergies (CGS § [10-212c](#))
- Training program for administering first aid to students having allergic reactions (CGS § [10-212g](#))

ISSUE

Summarize laws in other states on life-threatening food allergies in schools.

SUMMARY

Several New England and Mid-Atlantic states, along with some southern states and California, have passed legislation addressing life-threatening food allergies in public and private schools.

This report summarizes the state laws by topic in several tables below. These laws cover the following topics:

1. creation of state agency guidelines on food allergies in schools,
2. creation of district-wide and school-wide plans or policies,
3. staff training on food allergies,
4. use of and funding for emergency epinephrine auto-injectors,
5. liability of school staff or volunteers who administer epinephrine, and
6. creation of policies for managing students with life-threatening nut allergies.

STATE LAWS BY TOPIC

With the Legislative Library's help, we surveyed states neighboring Connecticut, as well as beyond, for laws addressing life-threatening food allergies in schools. We found examples in California, Maryland, New Hampshire, New Jersey, New York,

Pennsylvania, Rhode Island, Tennessee, Vermont, and West Virginia. We summarize these laws in Tables 1 through 9 below, which are organized by topic.

Table 1: Laws Requiring State Agency Guidelines on Managing Food Allergies in Schools

State	Statute	Description
New Hampshire	N.H. Rev. Stat. Ann. § 200:44-a(II) (2016)	<p>Requires the state's department of education, in consultation with the New Hampshire School Nurses' Association, to develop and make available guidelines for managing students with life-threatening allergies for school nurses to implement</p> <p>Guidelines must address the following:</p> <ul style="list-style-type: none"> • education and training for unlicensed personnel on managing such students and administering an epinephrine auto-injector • procedures for responding to life-threatening reactions • creation of individualized health care plans and allergy action plans for students with life-threatening allergies • protocols to prevent allergen exposure
New Jersey	N.J. Stat. Ann. § 18A:40-12.6a (West 2012)	<p>Requires the state's department of education, in consultation with the state's department of health and other medical experts and associations, to establish guidelines for developing a policy to manage food allergies and emergency epinephrine administration</p> <p>Guidelines must be distributed to boards of education for public school districts and private school chief administrators</p>
New York	N.Y. Pub. Health Law § 2500-h(1 & 2) (McKinney 2007)	<p>Requires the state's public health commissioner (in consultation with the state's education commissioner, certain medical and educational professionals, and parents of children with life-threatening allergies) to establish guidelines and procedures for school districts on preventing and responding to an anaphylactic emergency</p> <p>Guidelines must include the following:</p> <ul style="list-style-type: none"> • procedure and treatment plans for responding to anaphylaxis • training course for school personnel • development of an individualized emergency health plan for children with life-threatening allergies • communication plan for intake and dissemination of students' life-threatening allergy information • strategies for reducing the risk of exposure to allergens causing anaphylaxis

Table 1 (continued)

State	Statute	Description
Pennsylvania	24 PA. Stat. Ann. § 14-1422.3(5) (West 2011)	<p>Requires the state's department of education, in collaboration with advisory health councils, to develop guidelines for managing life-threatening food allergies in schools</p> <p>Guidelines must help school districts address the following:</p> <ul style="list-style-type: none"> • scope of childhood allergies and their impact on student health • detailed policies and protocols to prevent allergic reaction emergencies and deaths • systemic planning and multidisciplinary team approach that is approved before a student with life-threatening food allergies enters school • staff roles and training needed to prevent exposure to certain allergens • notice, consent, and documentation of medication administration to a student with a food allergy • emergency response protocols • staff roles when caring for a student with a life-threatening food allergy <p>Allows school districts to access each other's wellness policies in an online clearinghouse posted on the state's department of education website (see Table 2)</p>
Tennessee	Tenn. Code Ann. § 49-50-1602(f)(1) (West 2015)	<p>Requires the state's department of education, in conjunction with the state's health department, to develop guidelines for school districts on managing students with life-threatening food allergies</p> <p>The guidelines must address the following:</p> <ul style="list-style-type: none"> • training for school personnel, including administering medicine with a cartridge injector • procedures for responding to life-threatening food allergies • maintaining a file for each student at risk for anaphylaxis • developing communication strategies between schools and local emergency medical service providers • reducing the risk of allergens in classrooms and common areas • dissemination of information to staff, parents, and students • authorization of school personnel to administer epinephrine when the school nurse is unavailable

Table 1 (continued)

<i>State</i>	<i>Statute</i>	<i>Description</i>
		<ul style="list-style-type: none"> • timely accessibility of epinephrine when the school nurse is unavailable • developing extracurricular programs related to anaphylaxis • creating individual health plans to meet the needs of each student at risk for anaphylaxis that include procedures for medication self-administration • collecting and publishing data about each administration of epinephrine to a student
West Virginia	W.Va. Code Ann. § 18-5-22c(i) (West 2013)	<p>Instructs the State Board of Education, in consultation with the State Health Officer, to make rules that require the following:</p> <ul style="list-style-type: none"> • criteria for selecting nonmedical school personnel to administer epinephrine auto injectors • necessary training requirements for such personnel • training on anaphylaxis and allergy awareness for food service workers in the school system • in-school storage requirements for epinephrine auto-injectors • comprehensive requirements for notice to parents of a student who was administered a school-maintained epinephrine auto-injection • necessary documentation about receipt, inventory, storage, and usage of all auto-injectors • reporting requirements for county boards of education on usage of school-maintained auto-injectors during a school year • any other necessary requirements

Table 2: Laws Requiring Boards of Education to Create Plans or Policies on Life-Threatening Food Allergies in Schools

State	Statute	Description
New Hampshire	N.H. Rev. Stat. Ann. § 200:44-a (II) (2016)	Requires each school district, under a school nurse's direction, to (1) implement a plan for managing students with life-threatening allergies based on the state guidelines and (2) make the plan available to the public
New York	N.Y. Pub. Health Law § 2500-h (3) (McKinney 2007)	Requires each board of education to consider the state's anaphylactic policy guidelines and take action in response to it
Pennsylvania	24 PA. Stat. Ann. § 14-1422.1(c) (West 2012)	Permits local boards of education to submit information about initiatives regarding food allergy reaction management to the state's education department for inclusion in its online clearinghouse of wellness policies (see Table 1)
Tennessee	Tenn. Code Ann. § 49-50-1602(f)(2) (West 2015)	Requires local boards of education to implement plans for managing students with life-threatening food allergies based on state guidelines (see Table 1)

Table 3: Laws Requiring School-Level Plans or Policies on Life-Threatening Food Allergies in Schools

State	Statute	Description
Maryland	MD. Code Ann., Educ. § 7-426.1(b) (West 2010)	<p>Requires public school principals with students who have an anaphylactic allergy to do the following:</p> <ul style="list-style-type: none"> • monitor risk reduction strategies developed under state school health service guidelines • designate a peanut- and tree nut-free table in the cafeteria (see Table 9) • establish medication self-administration procedures for capable students
New York	N.Y. Pub. Health Law § 2500-h(3) (McKinney 2007)	<p>Requires each charter school to consider the state's anaphylactic policy guidelines and take action in response to it</p>
Rhode Island	R.I. Gen. Laws § 16-21-32(a) (2008)	<p>Requires the governing body of each elementary, middle, or junior high school to develop a policy that provides a safe environment for students with peanut or tree nut allergies (see Table 9 below), which includes the following:</p> <ul style="list-style-type: none"> • development of an individual health care plan and an emergency health care plan for each student with an allergy • collaboration with the school nurse, student's health care provider, student's parents or guardians, and the student (if appropriate) <p>Requires schools to implement a protocol to provide such students with protections while at school or participating in school-sponsored activities</p>

Table 4: Laws Requiring School Personnel Training on Life-Threatening Food Allergies

State	Statute	Description
California	Cal. Educ. Code § 49414(d)-(f) (West 2016)	<p>Requires the state superintendent to review training standards for administering epinephrine auto-injectors at least every five years, in consultation with various medical advisors</p> <p>Requires such training to include the following:</p> <ul style="list-style-type: none"> • techniques for recognizing anaphylaxis symptoms • standards and procedures for storing and restocking auto-injectors and emergency auto-injector use • emergency follow-up procedures • recommendations on the necessity of CPR instruction and certification • determining whether to use an adult or junior auto-injector on a student based on grade level or age • written materials about the above information <p>Requires such training to align with federal Centers for Disease Control and Prevention guidelines</p> <p>Allows public and private elementary and secondary schools to designate one or more volunteers to receive such training and requires school districts, county education offices, and charter schools to notify staff annually about the need for volunteers</p>
New Hampshire	N.H. Rev. Stat. Ann. § 200:44-a(I) (2016)	<p>Requires designated personnel to complete an anaphylaxis training program with refresher training at least every two years</p> <p>Requires the school nurse to provide the training either online or in person and to keep a list of those who completed it</p> <p>Requires the training to cover the following topics:</p> <ul style="list-style-type: none"> • recognizing symptoms of severe allergic reactions • storing and administering an epinephrine auto-injector • emergency follow-up procedures
Pennsylvania	24 PA. Stat. Ann. § 14-1422.3(1) (West 2011)	<p>Requires the state education department to include programs on food allergy management as part of the continuing professional education courses, programs, or activities required to maintain certification</p>
Vermont	Vt. Stat. Ann. tit. 6, § 4723 (West 2014)	<p>Requires the state's education secretary to offer expanded regional training sessions, as funds are available, for public school food service personnel that include information about coping with severe food allergies, among other topics</p>

Table 5: Laws Requiring the Stocking and Administration of Emergency Epinephrine Injectors in Public Schools

State	Statute	Description
California	Cal. Educ. Code § 49414(a), (g) & (h) (West 2016)	<p>Requires school districts, county education offices, and charter schools to provide emergency epinephrine auto-injectors for school nurses or trained personnel (i.e., volunteers) to use to give emergency aid to people having an anaphylactic reaction</p> <p>Requires health supervisors (or, if there are none, administrators) for school districts, county education offices, or charter schools to obtain a prescription for at least each of the following auto-injectors:</p> <ul style="list-style-type: none"> • for elementary schools: one regular and one junior injector • for junior high schools, middle schools, and high schools: one regular injector (if no one requires a junior injector) <p>Makes health supervisors (or administrators) responsible for stocking and restocking auto-injectors within two weeks of use and before their expiration dates</p>
New Jersey	N.J. Stat. Ann. § 18A:40-12.5 (West 2015)	<p>Requires each board of education to develop a policy under state education department guidelines for the emergency administration of epinephrine to a student using an auto-injector that requires the following:</p> <ul style="list-style-type: none"> • parent or guardian written authorization for administration, annually renewed • parent- or guardian-provided written orders from a physician or advanced practice nurse that the student needs the medication • written notice from the board to parents and guardians about district employee immunity from liability for injuries from epinephrine administration (see Table 6) • placement of a student's epinephrine in a secure, unlocked location that is indicated on the student's emergency care plan • school nurse or designee availability at the school or school-sponsored functions • automatic transportation of the student to the hospital emergency room after epinephrine administration

Table 5 (continued)

<i>State</i>	<i>Statute</i>	<i>Description</i>
		<ul style="list-style-type: none"> • permissible epinephrine administration to any student without a known history of anaphylaxis or without parent written authorization if there is a good-faith belief that an anaphylactic reaction has occurred • maintenance of a secure, unlocked supply of injectors that is accessible to the school nurse or trained designees
Tennessee	Tenn. Code Ann. § 49-50-1602(f)(3)(A)-(D) (West 2015)	<p>Authorizes public schools to maintain epinephrine auto-injectors in at least two unlocked, secure locations, including the school office and cafeteria, to be administered to any student believed to be having a life-threatening allergic reaction</p> <p>Allows a physician to prescribe auto-injectors in the name of a school district to be maintained by schools for use when necessary</p> <p>Allows a school nurse or other trained school personnel to use an auto-injector on a student that does not have one to respond to an anaphylactic reaction, under a standing physician protocol</p>
West Virginia	W.Va. Code Ann. § 18-5-22c(a)-(e) (West 2013)	<p>Allows public schools to maintain a supply of epinephrine auto-injectors in a secure location for emergency treatment of an anaphylactic reaction</p> <p>Specifies that students and personnel do not need a prior diagnosis to allow the school to stock auto-injectors</p> <p>Allows certain types of licensed physicians to prescribe auto-injectors to schools for this purpose</p> <p>Authorizes school nurses and trained, nonmedical school personnel to administer an epinephrine auto-injection to a student or personnel during school hours or at a school function under the belief that an anaphylactic reaction has occurred</p> <p>Requires that notice be sent to parents of a student who received an administration of epinephrine</p>

Table 6: Laws Requiring the Stocking and Administration of Emergency Epinephrine Injectors in Private Schools

<i>State</i>	<i>Statute</i>	<i>Description</i>
California	Cal. Educ. Code § 49414(c) (West 2016)	<p>Gives private schools the discretion to determine whether to make emergency epinephrine auto-injectors and trained personnel available, while considering the following:</p> <ul style="list-style-type: none"> • emergency medical response time to the school • whether initiating emergency medical services is an acceptable alternative to auto-injectors and trained personnel <p>Prohibits private schools from receiving state funds for the auto-injectors and training</p>
New Jersey	N.J. Stat. Ann. § 18A:40-12.5 (West 2015)	Applies to private schools the same requirements as public schools for a policy on the emergency administration of epinephrine to a student using an auto-injector (see Table 5)
Tennessee	Tenn. Code Ann. § 49-50-1602(f)(3)(A)-(D) (West 2015)	Applies to private schools the same requirements as public schools for a policy on the emergency administration of epinephrine to a student using an auto-injector (see Table 5)
West Virginia	W.Va. Code Ann. § 18-5-22c(a)–(e) (West 2013)	Applies to private schools the same requirements as public schools for a policy on the emergency administration of epinephrine to a student using an auto-injector (see Table 5)

Table 7: Laws on Liability and Indemnification of School Personnel Administering Emergency Epinephrine

<i>State</i>	<i>Statute</i>	<i>Description</i>
Maryland	MD. Code Ann., Educ. § 7-426.1(d) & (e) (West 2010)	<p>Grants immunity from civil liability to an employee who responds in good faith to a child's anaphylactic reaction for an act or omission in the course of responding (except for a willful or grossly negligent act)</p> <p>Allows a local county board to require a child's parent or guardian to sign an acknowledgment that the school or its employees are not liable for any injury arising from a child's self-administration of medication</p>
New Jersey	N.J. Stat. Ann. § 18A:40-12.5(c) & (d) (West 2015)	<p>Requires boards of education and private school chief administrators to give written notice to students' parents and guardians that the district or school, and its employees or agents, have no liability for injuries from epinephrine administration with an auto-injector</p> <p>Requires parents or guardians to sign the above statement, which also states that they must indemnify and hold harmless the district or school, and its employees or agents, against any claims arising out of the epinephrine administration</p>
Tennessee	Tenn. Code Ann. § 49-50-1602(f)(3)(E) & (F) (West 2015)	<p>Releases from liability a physician who prescribed epinephrine to a school district or private school when a student is injured or harmed due to epinephrine administration, unless the physician issued it with intentional disregard for safety</p> <p>Releases from liability a school nurse or school employee who administers epinephrine to a student and the student is injured or harmed by the injection, unless it was administered with intentional disregard for safety</p>
West Virginia	W.Va. Code Ann. § 18-5-22c(f) (West 2013)	Grants immunity from liability to a school nurse or trained, authorized nonmedical school personnel who administers epinephrine to a student or school personnel for any action arising out of an act or omission resulting from the administration, unless it was due to gross negligence or willful misconduct

Table 8: Laws on Funding Emergency Epinephrine Auto-Injectors

State	Statute	Description
California	Cal. Educ. Code § 49414(k) (West 2016)	Allows a state agency, the state department of education, or a public school to accept gifts, grants, and donations to help with the auto-injector program, including accepting auto-injectors from a manufacturer or wholesaler
Pennsylvania	24 PA. Stat. Ann. § 14-1422.3(2) & (2.1) (West 2011)	Requires the state's education department to do the following: <ul style="list-style-type: none">• collaborate with the state's public health department to apply for federal funds related to coordinated school health funding to enhance programs on food allergy management, among other programs• identify, notify, and assist school districts with applying for federal and state funds related to food allergy reaction management
West Virginia	W.Va. Code Ann. § 18-5-22c(g) (West 2013)	Allows county boards of education to participate in free or discounted drug programs from pharmaceutical manufacturers to provide auto-injectors to schools in their counties that choose to stock them

Table 9: Laws Specific to Life-Threatening Nut Allergies in Schools

<i>State</i>	<i>Statute</i>	<i>Description</i>
Maryland	MD. Code Ann., Educ. § 7-426.1(b)(2) (West 2010)	Requires public school principals to designate a peanut- and tree nut-free table in the cafeteria
Rhode Island	R.I. Gen. Laws § 16-21-32(a)(2008)	<p>Requires each elementary, middle, or junior high school governing body to develop a policy to provide a safe environment for students with peanut or tree nut allergies (see Table 3)</p> <p>Suggests, based upon the nature and extent of a student's nut allergy, that his or her individual health care plan include the following:</p> <ul style="list-style-type: none"> • posting signs at school • prohibiting the sale of particular food items in the school • designating special tables in the cafeteria • prohibiting particular food items in certain classrooms • completely prohibiting particular food items in a school or on school grounds <p>Instructs the state's department of elementary and secondary education and department of health to amend their regulations for school health programs to establish standards for the care of students with nut allergies</p>